THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 23247 of 1995

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Dated 17-02-2006

Between:

G.Chandan Kumar.

..... PETITIONER

AND

The District Collector, Karimnagar District & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 23247 of 1995

O R D E R:

Proceedings of the Joint Collector and Additional District Magistrate, Karimnagar, dated 23-09-1995, seeking to cancel the caste certificate issued in favour of the petitioner herein, is impugned in the present writ petition.

Facts, to the extent necessary, are that the petitioner claims that he belongs to "VANNE KAPU" community, that a certificate was issued to him by the then Tahsildar, Mallial, on 21-10-1980, pursuant to which, he joined the Transport

Department as Assistant Motor Vehicles Inspector. On the date on which the writ petition was filed, the petitioner was working as Motor Vehicles Inspector at Nirmal, Adilabad District. Petitioner alleges political consideration as the basis for several complaints filed against him with regard to his caste status. Petitioner would state that the Tahsildar, Mallial, conducted an enquiry and submitted a report on 03-09-1984, in which he stated that he belongs to "VANNE KAPU" caste. Again, on 19-07-1989, the Mandal Revenue Officer, Mallial, is said to have submitted a report stating that the petitioner belongs to "VANNE KAPU" caste. Again in 1995, the Mandal Revenue Officer, is said to have submitted a report dated 31-05-1995 to the District Collector, holding that the certificate issued by the then Tahsildar on 21-10-1980 holding that the petitioner belongs to "VANNE KAPU", was valid. Petitioner also refers to certain enquiries by police officials and also by the Joint Transport Commissioner, wherein his caste status was said to have been confirmed. The impugned show cause notice dated 23-09-1995 is questioned on the ground that since the enquiry, which formed the basis of the show cause notice, was held behind the petitioner's back, any finding recorded therein that the petitioner did not belong to "VANNE KAPU" caste was a finding arrived at without giving an opportunity to the petitioner of being heard and was in violation of principles of natural justice.

Sri V.Rajagopal Reddy, learned counsel for the petitioner, would submit that since the authorities have already come to the conclusion that the caste certificate, holding that the petitioner belongs to "VANNE KAPU" community, is false, issuance of a show cause notice, for cancellation thereof, is an empty formality and since the show cause notice is in violation of principles of natural justice, it is liable to be set aside. Learned counsel would submit that since the petitioner has already been subjected to repeated enquiries, time and again, ever since 1980, and in all enquires held so far, it has been confirmed that he belongs to "VANNE KAPU" community, another enquiry in this regard or action taken to cancel his certificate pursuant thereto would violate his fundamental rights under Article 21 of the Constitution of India. Learned counsel would place reliance on the judgment of a Division Bench of this Court in **Govt. of A.P. v. R.K.Ragala** in this regard. Learned counsel would also refer to the provisions of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997 (for short 'the Act and Rules'), and submit that the detailed procedure prescribed therein has not been complied with prior to the

issuance of show cause notice. Learned counsel would place reliance on the judgment of a Division Bench of this Court in **S.Sasidevi v. Commissioner, Tribal Welfare.**

Learned Government Pleader for Social Welfare, on the other hand, would submit that the earlier enquiries, on which the petitioner seeks to place reliance on in support of his submissions is that he belongs to "VANNE KAPU" community were all departmental enquiries and are not enquiries to determine the caste status of the petitioner. Learned counsel would submit that the benefits of reservation must necessarily be given only to those who are entitled thereto and if, it is found that the petitioner does not belong to the BC-A category, he is not entitled to claim the benefits thereof, merely because, he continued in service for a length of time. Learned counsel would submit that permitting a person, who does not belong to the reserved category, to enjoy the fruits or benefits of reservation would result in persons, who are actually entitled to the said benefits, being deprived of the benefits of reservation. Learned Government Pleader would submit that the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997, came into force on
16-05-1997 and the impugned show cause notice was issued prior thereto. He would submit that in view of passage of time and since the said Act and the Rules made thereunder are now in force, the respondents must be permitted to take action in accordance with the provisions of the Act and Rules made thereunder.

It is well settled by a catena of judgments of the Supreme Court that merely because an employee has continued in service for a length of time there is no prohibition, in law, for proceeding against him for having secured employment on the basis of a false caste certificate, since a person, who does not belong to the reserved category, ought not be permitted to enjoy the fruits or benefits of reservation. Since the earlier enquiries were not under the Act or the Rules made thereunder, inasmuch as both the Act and the Rules came into force, after the impugned notice was issued, reliance placed on **R.K.Ragala** (1 supra), that repeated enquiries would violate the petitioner's fundamental rights under Article 21 of the Constitution of India, is misplaced.

On being pointed out that in the earlier show cause notice, the respondents had already come to the conclusion that the caste certificate of the petitioner was false, learned Government Pleader would fairly agree that any action to be taken against

the petitioner must comply not only with the statutory provisions of the Act and Rules made thereunder, but must also comply with the rules of natural justice. Learned Government Pleader would submit that while the respondents cannot be precluded from taking action, on the basis of complaints received regarding the caste status of an individual, such action would necessarily have to be in accordance with the Act and Rules.

Since the impugned show cause notice dated 23-09-1995 was on the basis of a discreet enquiry of which the petitioner had no notice and since the show cause notice proceeds on the presumption that the caste certificate submitted by the petitioner is false, there is substantial force in the submission of Sri V.Rajagopal Reddy, learned counsel for the petitioner, that submitting a reply thereto would be an empty formality. I am however unable to accept his contention that no action should be taken against the petitioner in view of the earlier enquiries or because of passage of time.

It would meet the ends of justice, if the petitioner is given an opportunity not only to submit his representation on the genuineness of his earlier caste certificate, but also as to why the caste certificate issued to him earlier should not be cancelled. Needless to state that in order to enable the petitioner to submit an effective reply to the show cause notice, the documents on which reliance was placed, in the said show cause notice, must be supplied to the petitioner and thereafter action must be taken in accordance with the provisions of the Act and the Rules made thereunder. Till action is taken under the Act and Rules and final orders are passed in this regard, the certificate granted to the petitioner earlier shall not be cancelled.

The writ petition is accordingly disposed of. There shall be no order as to costs.

17-02-2006

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